

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Walker, et al.
Patent No. 7,815,503
Issued: October 19, 2010
Appl. No.: 10/787,356
Conf. No.: 4853
Filed: February 26, 2004
Title: METHOD AND APPARATUS FOR PLAY OF A GAME WITH NEGATIVE
OUTCOMES
Art Unit: 3714
Examiner: Jason Paul Pinheiro
Docket No.: 3718582-00103

Mail Stop OFFICE OF PETITIONS / OPLA

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(d)**

Sir:

Patentees hereby petition for reconsideration of the Patent Term Adjustment accorded the above-referenced application at time of issuance. The Issue Notification and Determination of Patent Term Adjustment under 35 U.S.C. 154(b), states that the Total PTA is 1431 days. That is, USPTO Delay 1573 days and APPL Delay 142 days. The USPTO Delay days of 1573 appear to be understated, resulting in the Total PTA being shorter than appropriate on the issue date of October 19, 2010.

Patentee respectfully requests a review of the prosecution file history, with attention to the May 17, 2010 entry, Request for Continued Examination (RCE).

STATEMENT OF FACTS

The PAIR Transaction History correctly reflects that responsive to the Final Rejection mailed March 15, 2010, a Request for Continued Examination (RCE) was received in the Office on May 17, 2010.

37 C.F.R. 1.703 (b) (1) provides:

[t]he number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. §132(b) was filed and ending on the date the patent was issued;

Under this provision, the USPTO Delay under 35 U.S.C. §154(b)(1)(B) would have started on February 26, 2007 (i.e., three years after the actual filing date of February 26, 2004) and ended on May 17, 2010, the day the Request for Continued Examination was filed and received in the Office.

REMARKS

In consideration of the events described above, Patentees believe the Total PTA calculation of 1431 days appears to be understated as of the issuance date. Patentees respectfully request reconsideration of the patent term adjustment in the following manner.

1) USPTO Delay to be corrected to reflect an increase of 234 days under 35 U.S.C. §154(b)(1)(B) associated with the filing of the Request for Continued Examination on May 17, 2010, thereby increasing the USPTO Delay from 942 days to 1176 days;

2) APPL Delay: 142 days – correct as stated;

3) Total PTA days be increased from 1431 to 1665 days (1431 plus 234).

Pursuant to 37 CFR § 1.18(e), the fee of \$200 is submitted herewith. To the extent that any additional fees are due and owing for this Petition, the Commissioner is hereby authorized to charge them to Patentee's undersigned attorney's Deposit Account 02-1818.

Thank you for your consideration.

Respectfully submitted,

K&L Gates LLP

BY 

Adam H. Masia
Reg. No. 35,602
Customer No. 29159

Dated: December 17, 2010